

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JASON MARK HART,

Plaintiff,

v.

DAN SCHNEEWEISS, *et al.*,

Defendants.

Case No. 2:19-cv-01193-RAJ-BAT  
ORDER

Having reviewed the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge, any objections or responses to that, and the remaining record, the Court finds and **ORDERS**:

(1) The Court **ADOPTS** the Report and Recommendation.

(2) Defendants' motion for summary judgment (Dkt. # 19) is **GRANTED in part** and **DENIED in part**.

(3) Defendants' motion (Dkt. # 19) is **GRANTED** in its entirety with respect to Defendant Dan Schneeweiss and all claims against that Defendant are dismissed.

(4) With respect to Defendant Calvin Cogburn, Defendants' motion is **GRANTED** with respect to Plaintiff's Fourth Amendment, Eighth Amendment, Fourteenth Amendment substantive Due Process claims, and state law assault and battery claims and those claims are dismissed. Defendants' motion is **DENIED without prejudice** with respect to Plaintiff's Fourteenth Amendment procedural Due Process

1 claims against Defendant Cogburn.

2 (5) To the extent Plaintiff intends to raise retaliation claims against Defendants  
3 Schneeweiss and Cogburn based on his classification as custody level I during the period  
4 in question, these claims are **DISMISSED without prejudice** pursuant to 28 U.S.C.  
5 § 1915A for failure to state a claim.

6 (6) Defendants' request that Plaintiff be assessed a "strike" under 28 U.S.C.  
7 § 1915(g) is **DENIED**.

8 (7) Plaintiff's remaining claims are referred back to Hon. Brian A. Tsuchida for  
9 further proceedings.

10 (8) The Clerk is directed to send copies of this Order to the parties.

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12 DATED this 19th day of October, 2020.

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15 The Honorable Richard A. Jones  
16 United States District Judge  
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